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RQ-315

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January 20, 1992

The Attorney General of Texas  
P.O. Box 12548  
Austin, Texas 78711

FILED  
JAN 23 1992  
Opinion Committee

Attn: Opinion Committee

Re: Request formal opinion as to Section 118.0216 of the  
Local Government Code (Records Management and Preservation  
Fee)

Dear Sir,

I have been asked by the County Clerk of Lampasas  
County, Texas to seek a formal opinion in regard to the use  
of the above fee. The questions that have been posed to me  
are as follows;

1. Is the fee a designated (discretionary fund) fee under  
the control of the County Clerk?
2. Can the fee collected under this Section be used to rent  
or lease additional office space to store county records if  
the present facilities are not adequate?
3. If the County Clerk is out of space in the Court House,  
can the County Clerk move offices across the street to a  
privately owned building and use this fee either in whole or  
in part to defray the cost of the monthly lease or purchase  
payments?
4. Is the fee to be deposited into the County Treasury to  
be used by the County Clerk for the purposes set out in the  
statute?
5. What is "specific records preservation"?

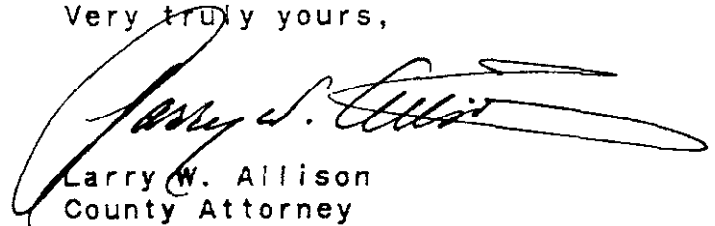
The attached brief sets out our arguments and should  
give you a starting point. The area of law regarding fees  
of office offers very little help in answering some of these  
questions. I believe most of our help will come from prior

opinions of your office although I do not have an extensive index to those opinions.

Please let me know if you have any questions.

Your expedited opinion in regard to the records management and preservation fee will be most appreciated. Please let me know if you have a need for further information on this subject. The Statute is contained within Senate Bill 770 which was a companion bill to HB 1717. Thank you in advance for your kind and prompt attention to this matter.

Very truly yours,



Larry W. Allison  
County Attorney

LWA:mh